

OKLAHOMA WORKERS' COMPENSATION COMMISSION
REGULAR MEETING MINUTES
MARCH 18, 2021, 1:30 P.M.

STATEMENT OF OKLAHOMA OPEN MEETING ACT COMPLIANCE

Notice of this Regular Business Meeting was filed with the Secretary of State's office on Tuesday, December 29, 2020, at 3:56 p.m. in compliance with the Open Meeting Act.

The agenda was posted at least 24 hours in advance of the meeting, in compliance with the Open Meeting Act. It was posted on the Commission website and at 1915 N. Stiles Ave., Oklahoma City, Oklahoma, the Commission's principal office.

MINUTES OF THE MARCH 18, 2021 REGULAR BUSINESS MEETING OF THE
OKLAHOMA WORKERS' COMPENSATION COMMISSION

The members of the Oklahoma Workers' Compensation Commission met at 1915 N. Stiles Ave., 2nd floor, Oklahoma City, Oklahoma, on March 18, 2021.

Members present: Chairman Mark Liotta, Commissioner Megan Tilly (via Zoom teleconference), and Commissioner Jordan Russell

Others Present: Lauren Hammonds Johnson, WCC; Hopper Smith, WCC; Alexander Watkins, WCC; James Lawson, WCC; Ian Steedman, WCC; Collin Fowler, WCC; Andrea Delling, WCC; Cyndy Sims, Metropolitan Healthcare Self Insured Group; and Ken Anderson, Oklahoma Business Insurers.

Chairman Liotta expressed appreciation for those in attendance. After the roll was taken, he announced the presence of a quorum. The meeting was called to order at approximately 1:30 p.m.

1. Approval of Minutes

The minutes of the March 4, 2021, Special Meeting of the Commission were considered for approval.

Motion: Commissioner Tilly moved to approve the March 4, 2021, Special Meeting of the Commission.

Second: Commissioner Russell

Those voting aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

The motion carried.

2. Request to Fully Release the Security Deposit for Westar Energy, Former Own Risk Permit #19811

Westar Energy (“the Company”), former own risk permit #19811, was a self-insured employer in the Own Risk program until October 19, 2018. The Company petitioned the Commission to fully release the Company’s security deposit on file. The Commission held a \$100,000 Letter of Credit, issued by Wells Fargo Bank, as a security deposit.

All claims are closed out, and they all have passed the statute of limitations for reopening. The Company has complied with Commission Rule 810:25-9-19.

James Lawson was recognized, presented, and answered questions of the Commission.

Motion: Commissioner Russell moved to fully release the security deposit for Westar Energy in the amount of \$100,000.

Second: Commissioner Tilly

Those voting aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

The motion carried.

3. Request to Approve the Distribution of Surplus Monies to Members of the Metropolitan Health Care Self Insured Group (#75220)

Rule 810:25-11-10 of the Workers' Compensation Commission provides that any distributions of surplus funds back to the members of a group self-insurance association shall be subject to the prior approval of the Commission.

The Metropolitan Health Care Self Insured Group (“the Group”) has requested to make a partial distribution in the amount of \$816,702. The distribution will be payable from the following seven fiscal fund years ending on September 30th: FY 13 (\$65,529.88), FY 14 (\$93,113.80), FY 15 (\$201,194.76), FY 16 (\$204,068.93), FY 17 (\$166,809.50), FY 18 (\$40,340.82), and FY 19 (\$45,644.31).

The Group had a financial surplus of more than \$7,038,111 for all years combined, as indicated in the audited financial statement for the period ending September 30, 2020.

James Lawson was recognized, presented, and answered questions of the Commission.

Motion: Commissioner Russell moved to approve distribution of surplus monies to the Metropolitan Health Care Self Insured Group in the amount of \$7,038,111.

Second: Commissioner Tilly

Those voting aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

The motion carried.

4. Discussion and Possible Action on the Workers' Compensation Commission's CC-Forms 3, 3A, 3B, 3C, and 3F and Setting the Effective Date

Title 85A O.S. § 22(A)(2)(a) provides: “[t]he Commission shall vote on any substantive change to any form and the effective date of such substantive change.” The Commission considered modifications and took action on the proposed draft CC-Forms 3, 3A, 3B, 3C, and 3F.

Ian Steedman was recognized, presented, and answered questions of the Commission.

Motion: Commissioner Russell moved to adopt CC-Forms 3, 3A, 3B, 3C, and 3F, as proposed, and set the effective date to April 1, 2021.

Second: Commissioner Tilly

Those voting aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

The motion carried.

5. Discussion and Possible Action on Proposed Changes to the Commission's EDI Proof of Coverage and Requirements

Section 101 of Title 85A tasks the Commission with implementing an electronic data interchange (“EDI”) system to provide relevant data concerning the Oklahoma workers’ compensation system and the delivery of benefits to injured workers. The Commission will discuss proposed changes to the Electronic Data Interchange system’s proof of coverage and requirements.

Ian Steedman was recognized, presented, and answered questions of the Commission.

Motion: Commissioner Russell moved to approve the proposed changes, if covered under the current cost agreement.

Second: Commissioner Tilly

Those voting aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

The motion carried.

6. Legislative Update Report and Discussion

Commissioner Russell reported on legislative meetings and legislation affecting the Commission.

No action was taken on this item.

7. Discussion and Possible Action Regarding Operation of the Workers' Compensation Commission and Agency Concerns Related to COVID-19

Lauren Hammonds Johnson updated the Commission on the Governor's most recent executive order no longer requiring state employees or guests to wear face masks in state buildings. She also made note of the CDC's guidelines that still recommend the use of masks in public areas and social distancing regardless of vaccination status. Oklahoma City Council will continue mask mandates until at least April 30.

Chairman Liotta stated that he would like to see a declining trend of COVID-19 case data, in the next couple of months, before lifting mask requirements at the Commission; an employee was infected as recently as last week.

Commissioner Russell recommended to keep the Commission's mask requirements in effect.

Commissioner Tilly suggested keeping the mandate until more data is reviewed in the April meeting and to align with Oklahoma City's mask mandate.

Collin Fowler reported the Oklahoma Health Department's guidelines for risk phases. Oklahoma County has been in the moderate risk phase since July; 14.2 per 100,000 cases. Tulsa's COVID-19 exposures are lower at 9 per 100,000 cases. Recommendations for both risk phases are social distancing, face masks, and avoiding large groups.

Commissioner Tilly stated lifting mask mandates will depend on the general availability of the COVID-19 vaccine; once vaccines are accessible to everyone, it would be hard to justify mask requirements.

Andrea Delling stated that the CDC will only report COVID-19 numbers once a week, on Wednesday, because more of the vaccine is available.

Commissioner Russell stated that Oklahoma is in phase 3 and asked the Commissioners their opinions on classifying WCC employees as Critical Infrastructure Personnel (CIP) to receive vaccinations.

Commissioner Tilly and Chairman Liotta both agreed that WCC employees are CIPs.

No action was taken on this item.

8. New Business

“[A]ny matter not known about or which could not have been reasonably foreseen prior to the time of the posting.” 25 O.S. § 311.

9. Announcements

The Commission’s next regular appeals meeting is on Friday, March 26, 2021 at 9:00 a.m. The Commission’s next dual PAC meeting is on Friday, March 26, 2021 at 2:00 p.m. The Commission’s next dual advisory meeting is on Thursday, April 1, 2021. The Commission’s next regular business meeting is on Thursday, April 15, 2021.

ADJOURNMENT.....Chairman Mark Liotta

Motion: Commissioner Tilly moved to adjourn.

Second: Commissioner Russell

Those voting aye: Chairman Liotta, Commissioner Tilly, and Commissioner Russell.

The motion carried.

The meeting adjourned at 2:00 p.m.